

Capital Punishment: Emotions or Principles?

by Sebastian R. Fama

In June of 1997 Timothy McVeigh was sentenced to death for bombing the Alfred T. Murah building in Oklahoma City. One hundred and sixty eight innocent people were killed. Nineteen of the dead were small children who were in the day care center on the second floor. Timothy McVeigh's actions were, by any standard, horrific. If anyone was deserving of the death penalty it was surely he.

As a Catholic apologist my job is to demonstrate the truth. Feelings and emotions have no part in the process. If they did I never would have had my appendix out. I also wouldn't be here to write this. The truth is determined by facts and facts alone

At the time of the Oklahoma City bombing I was very much in favor of the death penalty. I hadn't given it much thought. It just seemed right. A friend who was of the same mind asked me how we could defend the use of capital punishment. I approached the subject from every angle that I could think of. But no matter what I tried, I couldn't come up with an airtight case. There was always some unanswered question. It began to dawn on me that the death penalty couldn't be intellectually defended, at least not in the majority of cases.

From an emotional standpoint it was easy; he's human debris, fry him. But as I've already noted, emotions are not very reliable when it comes to determining the truth. Rational thought is the only reasonable course of action. Being unable to come up with a rational defense for the death penalty troubled me. I had been a proponent of capital punishment for many years. How could I have been so wrong for so long? It was obvious that I would have to change my position. Intellectual honesty demanded it.

The whole experience left me a bit conflicted. I was now intellectually opposed to the death penalty, but somehow it didn't bother me when someone was executed. Something deep down inside of me still said they deserved it. I made no effort to resolve my inner conflict. Perhaps I was subconsciously trying to have it both ways. In any event, that is the way I left it for the next eight years.

In January of 2005 the case of Michael Ross was in the news. Michael Ross was convicted of the rape and murder of eight women and girls back in the 1980s. It didn't take long for me to be drawn into a discussion on capital punishment. So I decided to pick up where I left off years earlier. It was time to get my intellect and emotions on the same page.

Back in 1997 I tried to defend the death penalty and came up short. This time I decided to make the case against the death penalty. As I was beginning my little project, I overheard a conversation between two Catholics. One man said to the other: "Do you know that the priest wanted us to sign something against the death penalty yesterday?" The other man said: "Yes that was a petition from the bishop, we had it at our church too. He ought to stay out of this stuff and mind his own business."

The last comment made me chuckle. Saying the death penalty isn't the bishop's business is like saying a chef shouldn't comment on matters concerning food. You may choose to disagree with the bishop, but you certainly couldn't claim that the death penalty is none of his business. The Church was commissioned by Christ to teach on matters of faith and morals. Whether or not to take someone's life undoubtedly qualifies. If the Church chose to be silent on this issue she would be neglecting her mission.

The primary teacher in any diocese is the bishop. As a successor to the apostles it is his job to communicate the Church's mind on any given subject. The bishop's stand on the death penalty did not come out of thin air but from a deep understanding of the Christian faith. Pope John Paul II wrote the following in his encyclical letter *Evangelium Vitae* (The Gospel of Life):

It is clear that, for these purposes to be achieved, the nature and extent of the punishment must be carefully evaluated and decided upon, and ought not go to the extreme of executing the offender except in cases of absolute necessity: in other words, when it would not be possible otherwise to defend society. Today however, as a result of steady improvements in the organization of the penal system, such cases are very rare, if not practically non-existent.

In any event, the principle set forth in the new *Catechism of the Catholic Church* remains valid: "If bloodless means are sufficient to defend human lives against an aggressor and to protect public order and the safety of persons, public authority must limit itself to such means, because they better correspond to the concrete conditions of the common good and are more in conformity to the dignity of the human person."

Before you think "that's easy for him to say", keep in mind that he forgave and embraced the man who shot and wounded him in a murder attempt.

The Church sanctions the death penalty only in extreme cases. This makes perfect sense and is in line with well-known Christian principles. You can kill someone in self-defense or to stop him from killing someone else. In a country like the United States, we have the means to lock murderers away securely for life. Thus, killing them becomes unnecessary. The death penalty can only be morally used in a case where it is not possible to securely lock someone up who is a threat to society.

There are those who think that if we don't kill people like Timothy McVeigh and Michael Ross they will be getting away with something. Others want them dead out of revenge. Paul addresses both of these mindsets in Romans 12:19: "Beloved, do not look for revenge but leave room for the wrath; for it is written, 'vengeance is mine, I will repay, says the Lord'"

So God doesn't want us to seek revenge and He assures us that He will avenge any wrongdoing. I began to realize that unless God was lying I didn't have to worry about anybody getting away with anything. It was becoming pretty obvious that I needed to change my attitude as well as my opinion.

In an effort to convince me that capital punishment was a good thing a friend asked: "But how would you feel if it was your daughter that was raped and killed?" I don't think I would feel any differently than anyone else. I would probably want to kill the person responsible with my own hands. But my feelings wouldn't change what God said in Romans 12. As with so much of Christianity, trusting God in a situation like this requires a dying to self. I would hope that I would eventually be open to God's grace. Grace enables us to be the people that God wants us to be. It helps us to let go of our bitterness and to trust Him.

These are not just pious words. A number of people who had lost family members in the Murrah building were publicly opposed to Timothy McVeigh's execution. Some were members of an organization called Murder Victims Families for Reconciliation. Their stated mission is to abolish the death penalty. As the name implies, this is an organization of families who have suffered the loss of a loved one through murder.

Whenever the death penalty is discussed a very important point is often overlooked. Those in favor have a tendency to focus on the high profile cases like Michael Ross or Timothy McVeigh. Because there is no doubt about their guilt, people feel confident in their support of the death penalty. They tend to forget that the death penalty is there for all of the other people on death row as well. Many of their cases are not so clear cut. In fact we know that some have been wrongly convicted. Subsequent evidence or a confession by the real killer has set a number of Death Row inmates free. The American Bar Association reported that in a four-year period, seventeen Death Row inmates had been found innocent and freed. I believe it is reasonable to assume that innocent men and women have been executed. Perhaps I should ask my friend how he would feel if his daughter were wrongly executed.

From a financial standpoint, abolishing the death penalty would save a great deal of money. A Duke University study found that: "The death penalty costs North Carolina \$2.16 million per execution over the costs of a non-death penalty murder case with a sentence of imprisonment for life." (*The Costs of Processing Murder Cases in North Carolina* / Philip J. Cook, Donna B. Slawson; with the assistance of Lori A. Gries. [Durham, NC]: Terry Sanford Institute of Public Policy, Duke University, 1993.)

A 1991 study of the Texas criminal justice system estimated the cost of appealing capital murder at \$2,316,655. In contrast, the cost of housing a prisoner in a Texas maximum security prison single cell for 40 years is estimated at \$750,000. (*Punishment and the Death Penalty*, edited by Robert M. Baird and Stuart E. Rosenbaum 1995 p.109)

Florida spent an estimated \$57 million on the death penalty from 1973 to 1988 to achieve 18 executions - that is an average of \$3.2 million per execution. (*Miami Herald*, July 10, 1988). On average it costs about 2 million dollars more to execute someone than to imprison them for life.

In the final analysis we are left with two important questions: Should we as a society risk putting innocent men and women to death? And, can we as Christians ignore the clear Word of God?

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The Death Penalty and the Church

by Kevin Tierney

Hello Sebastian,

As one Catholic apologist to another, I think a few of the details in regards to the death penalty are a bit off. If one cannot have an intellectual rationale for the usage of capital punishment, then it comes from not actually studying the evidence for the issue, including the biblical mandates for it or the acknowledgment of such authority (St. Paul talks about this in Romans) as a reason why Christians should do well to follow the law, lest they rightly suffer the condemnation of the State and the sword.

The rational side of the equation is that in committing a heinous act against the public good, as in the case of the Oklahoma City bombers, he had to be punished for his crime. That's all the intellectual rationale that is needed. It's then the detractors argument to say that either the act wasn't heinous, or that the death penalty isn't deserving for such heinous acts, or that there's a degree of heinous acts which allow it, and those that don't.

As far as the petition the Bishop launched, while it might be the height of disrespect to tell him to "Mind his own business", **the Church should not** be taking sides on issues that faithful Catholics can disagree upon. (Benedict XVI reaffirmed this in *Deus Caritas Est*, as well as his authoritative pronouncement to Cardinal McCarrick during the 2004 elections) As then-Cardinal Ratzinger noted, since there can be legitimate difference of opinion on the death penalty, this is not something for the Church to take one side or the other. The most they can say is that while the death penalty should be used in some cases, this isn't one of them. (And even then neutrality is the traditional course)

"The Church was commissioned by Christ to teach on matters of faith and morals. Whether or not to take someone's life undoubtedly qualifies. If the Church chose to be silent on this issue she would be neglecting her mission." (*Capital Punishment: Emotions or Principles*)

On the issue of faith or morals, the Church has explicitly sanctioned the death penalty's licitness. That's about the only time faith or morals enters the equation, at least as far as the Magisterium is concerned. While not proclaimed definitively, it is the teaching and Tradition of the Church, – indeed I would argue through her Ordinary Magisterium, the Church demonstrates the lawfulness of the death penalty.

Since outlawing the death penalty as a Catholic position is not the mind of the Church, if a bishop presents it as such he is clearly misusing the office Christ entrusted to him. This is why JP II never called for its abolition from a Catholic standpoint, merely from the standpoint of a very learned theologian in the person of himself who happened to be Supreme Pontiff. His opinions are worthy of great respect, but can be disputed, and in this manner relatively easily.

The statement of JP II is a prudential one, equal in weight to his assertion that the *Didache* is the oldest Christian work post-scriptures we have, that he laid out in the same encyclical.

"Today however, as a result of steady improvements in the organization of the penal system, such cases are very rare, if not practically non-existent "(*Evangelium Vitae*)

This is something that in his competence as pope, the Holy Father cannot know, but is rather his opinion. Varying regions have different systems, as well as different circumstances. Let us take for example the Blind Sheik, the original mastermind of the first World Trade Center bombings. Sentenced to prison, he then facilitated through his attorney messages to his terrorist underlings. Though those plans were foiled, it was clear that with him still alive, society was placed at an extreme danger.

One could argue that the man should receive solitary for the rest of his life (where he would most likely go mad). However, then it is no longer about the rehabilitation of the criminal (the primary end as today's opponents of the death penalty argue) but rather the punishment of the criminal (as is the traditional understanding in Western jurisprudence, as well as the majority of Catholic thinkers throughout the ages, though, one must concede not everyone felt this way.)

You then, I believe, proof-text Romans 12. Indeed, the individual Christian is not to take revenge, and that is why the Church has **always** condemned vigilante justice as an insult to the rule of law. However, one of the ways God gives revenge is through the death penalty, the power he gave to Moses (and hence the State) to protect society, and punish the offenders. Just as God gives the Church (his creation) the power to punish people (with suspensions, excommunications, etc) so does he give the power to the State (which he also created) to punish the offenders of the civil sphere. (Anywhere from fines to imprisonment to when necessary the death penalty) Why Paul can state in Romans 13:

For princes are not a terror to the good work, but to the evil. Wilt thou then not be afraid of the power? Do that which is good: and thou shalt have praise from the same. For he is God's minister to thee, for good. But if thou do that which is evil, fear: for he beareth not the sword in vain. For he is God's minister: an avenger to execute wrath upon him that doth evil.

As one can see, when the death penalty is visited on the guilty, indeed the State is acting as God's minister of vengeance. The "Vengeance is mine" applies to the individual, not the right of the State. When we support the death penalty, we support the right of the State to do so.

Many of their cases are not so clear cut. In fact we know that some have been wrongly convicted. Subsequent evidence or a confession by the real killer has set a number of Death Row inmates free. The American Bar Association reported that in a four-year period, seventeen Death Row inmates had been found innocent and freed. I believe it is reasonable to assume that innocent men and women have been executed (*Capital Punishment: Emotions or Principles*).

You assume, but with absolutely no evidence. Death penalty proponents have been waiting for this "smoking gun" from the detractors, and they haven't found one in centuries. If anything, the eventual overturning of convictions is proof that simply safeguards need to be in place, and at least in America, they are in place **in spades**.

As far as the costs, now you want it both ways. On the one hand, you don't want the innocent executed. So to remedy that, we develop safeguards to prevent this from occurring. Now those safeguards are too expensive, another reason we need to abolish the death penalty! You want to have it both ways. Not to mention you are arguing from a utilitarian standpoint, that which is financially expedient. But this in itself utterly undercuts what JP II himself said on the death penalty, that the issue is not about fiscal expedience, but rather the dignity of the human person. Or is there a price one can put on dignity?

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Death Penalty Debate Continues

by Sebastian R. Fama

I read Kevin Tierney's comments on my death penalty article with great interest. He said that someone who commits a heinous act, such as Timothy McVeigh needs to be punished. I agree! But the question is to what degree are we responsible for his punishment? And to what degree is God responsible? Kevin, are you afraid that if we don't kill those guilty of heinous crimes that they will be getting away with something? What if we never caught Timothy McVeigh? Would that mean that he got away with his crime? No matter what we do or don't do everyone will receive the punishment they deserve. Attendance on Judgment Day is still mandatory. We serve a just God who will call everyone to account for their actions.

Besides, life in prison is a punishment. I believe our primary responsibility is to protect society. The reason is simple. If we don't lock up murderers they will keep on murdering. That is the obvious priority of the catechism. The Catechism of the Council of Trent is in full agreement with our present catechism. However, the emphasis on protecting society is a little more explicit. In the section on the 5th commandment, under the heading "Execution of Criminals," we read the following:

Another kind of lawful slaying belongs to the civil authorities, to whom is entrusted power of life and death, by the legal and judicious exercise of which they punish the guilty and protect the innocent. The just use of this power, far from involving the crime of murder, is an act of paramount obedience to this Commandment which prohibits murder. The end of the Commandment is the preservation and security of human life.

Now the punishments inflicted by the civil authority, which is the legitimate avenger of crime, naturally tend to this end, since they give security to life by repressing outrage and violence. Hence these words of David: In the morning I put to death all the wicked of the land, that I might cut off all the workers of iniquity from the city of the Lord (CCT).

Note that the emphasis is on protecting society. "The end of the Commandment is the preservation and security of human life."

You say the Church should not be taking sides on issues that faithful Catholics can disagree upon. The quote I used from *Evangelium Vitae* quotes the Catechism. I probably should have cited the paragraph to make the point a little clearer:

If bloodless means are sufficient to defend human lives against an aggressor and to protect public order and safety of persons, public authority must limit itself to such means, because they better correspond to the concrete conditions of the common good and are more in conformity to the dignity of the human person (CCC 2267).

I have always thought of the Catechism as being a statement of the Catholic faith. The authority of encyclicals was stated by Pius XII in the encyclical *Humani Generis*:

Nor must it be thought that what is expounded in Encyclical Letters does not of itself demand consent, since in writing such Letters the Popes do not exercise the supreme power of their Teaching Authority. For these matters are taught with the ordinary teaching authority, of which it is true to say: "He who heareth you, heareth me"; and generally what is expounded and inculcated in Encyclical Letters already for other reasons appertains to Catholic doctrine. But if the Supreme Pontiffs in their official documents purposely pass judgment on a matter up to that time under dispute, it is obvious that that matter, according to the mind and will of the Pontiffs, cannot be any longer considered a question open to discussion among theologians (no. 20).

Evangelium Vitae is an encyclical and thus the view of the Church. What faithful Catholics can disagree upon is exactly when "bloodless means" are sufficient. You mentioned then-Cardinal Ratzinger's letter to the U.S. bishops. I don't believe he was contradicting *Evangelium Vitae* or the Catechism. Note the wording in paragraph 3:

If a Catholic were to be at odds with the Holy Father on the application of capital punishment or on the decision to wage war, he would not for that reason be considered unworthy to present himself to receive Holy Communion. While the Church exhorts civil authorities to seek peace, not war, and to exercise discretion and mercy in imposing punishment on criminals, it may still be permissible to take up arms to repel an aggressor or to have recourse to capital punishment. There may be a legitimate diversity of opinion even among Catholics about waging war and applying the death penalty, but not however with regard to abortion and euthanasia.

Abortion and euthanasia are never allowed. War and capital punishment are allowed under certain circumstances. Honest people can differ when determining if the circumstances are correct. That is why Catholics with differing opinions on this issue can still present themselves for communion. Cardinal Ratzinger is not talking about people who reject Church teaching. He is talking about people who differ in their opinions on its application. Once again note the wording: "at odds with the Holy Father on the application of capital punishment"... "It may still be permissible... to have recourse to capital punishment"... "There may be a legitimate diversity of opinion even among Catholics about ...applying the death penalty".

For the sake of argument let us say that I am wrong about Cardinal Ratzinger's intent. You still wouldn't have a case. You refer to the Cardinals letter as "authoritative." Apparently you didn't think *Evangelium Vitae* and *Humani Generis* were authoritative. I find that rather curious. You reject the clear teaching of two encyclicals which are infallible in nature, while at the same time adhering to a letter to the U.S. bishops which is not infallible in nature. Even a letter from the pope to a group of bishops is not infallible in nature. With all due respects, I think you are picking and choosing to suit yourself.

You stated that "the Church has explicitly sanctioned the death penalty's licitness." I agree! The Church does allow for the death penalty. We just saw that in the quote from the Catechism. However, the Catechism also sets down conditions for its use. There is no contradiction here.

You quoted Romans 13:4 (lest they rightly suffer the condemnation of the State and the sword). Once again this presents no problem. Romans makes a general statement and the Catechism gets specific. If bloodless means are sufficient they should be used. If they are not sufficient capital punishment can be used. You quoted *Evangelium Vitae*:

Today however, as a result of steady improvements in the organization of the penal system, such cases are very rare, if not practically non-existent.

You then wrote:

This is something that in his competence he [John Paul II] cannot know, but is rather his opinion. Varying regions have different systems, as well as different circumstances. Let us take for example the Blind Sheik, the original mastermind of the first WTC bombings. Sentenced to prison, he then facilitated through his attorney messages to his terrorist underlings. Though those plans were foiled, it was clear that with him still alive, society was placed at an extreme danger.

I realize that there are different conditions in different countries. If a particular country cannot insure the safety of its citizens by imprisoning a murderer then they may execute him. There is no problem here. In the case of the blind sheik, if he is still a danger to society while he is locked up, give him the death penalty.

Let us return to the key condition laid out in *Evangelium Vitae* "when it would not be possible otherwise to defend society." You attempted to refute my quotation from Romans 12:19 with Romans 13:3-4 which reads:

For princes are not a terror to the good work, but to the evil. Wilt thou then not be afraid of the power? Do that which is good: and thou shalt have praise from the same. For he is God's minister to thee, for good. But if thou do that which is evil, fear: for he beareth not the sword in vain. For he is God's minister: an avenger to execute wrath upon him that doth evil.

Perhaps I should have quoted verses 17-21 to clarify the context:

Repay no one evil for evil, but take thought for what is noble in the sight of all. If possible, so far as it depends upon you, live peaceably with all. Beloved, never avenge yourselves, but leave it to the wrath of God; for it is written, "Vengeance is mine, I will repay, says the Lord." No, "if your enemy is hungry, feed him; if he is thirsty, give him drink; for by so doing you will heap burning coals upon his head." Do not be overcome by evil, but overcome evil with good.

Evil is not when someone steps on your tomato plants. Evil is what Timothy McVeigh did. Peter tells us the same thing: "Do not return evil for evil or reviling for reviling" (1 Peter 3:9). Luke 6:27-28 makes a similar point: "Love your enemies, do good to those who hate you, bless those who curse you." Which course of action do you think is more consistent with these verses? Life imprisonment or the death penalty? The wording in Roman's 13:4 seems to make your point. However, you can't refute one verse of Scripture with another as Scripture never contradicts itself. It all works together to produce one consistent message. When there is a seeming contradiction a closer look is necessary to reconcile the verses.

The death penalty is carried out under God's authority when it is just and it serves God's purposes. If not, as with the Nazis, it is a perversion of justice. Look at the context of Romans 13. Verse 3 says the following:

For rulers are not a terror to good conduct, but to bad. Would you have no fear of him who is in authority? Then do what is good, and you will receive his approval, for he is God's servant for your good.

The context assumes that government is acting justly. Paul is making a general statement on crime and punishment. He is not saying that governments can do whatever they want. I also think that the prison system of Paul's time was a bit more primitive than our own. This in itself would necessitate the greater use of capital punishment.

You say that government is "God's minister of vengeance." To a degree that is true. The question before us is, to what degree? The Ignatius Catholic Study Bible" says the following concerning Romans 13:

Scripture teaches that God grants political authority to civil rulers. By design, governments provide society with goods and securities that individuals and families could not provide for themselves. Note, however, that the state obliges the obedience of the Christian only when it legislates in accord with divine law.

Scripture and the teachings of the Church constitute Divine Law. You said that Romans 12:19 had to do with vigilante justice. You are correct, Romans 12:19 does cover vigilante justice. I don't have a problem with that. But it also makes my point about our leaving vengeance to the Lord. If I cheer on a government, which gets its power from me, when it kills criminals who no longer pose a threat to society, I am at odds with the verses which command: "Repay no one evil for evil" (Romans 12:17). "Do not return evil for evil or reviling for reviling" (1 Peter 3:9). "Love your enemies, do good to those who hate you, bless those who curse you" (Luke 6:27-28). So how do we reconcile Romans 13:4 with Roman's 12:17, 1 Peter 3:9, and Luke 6:27-28? Precisely the way the Church has done in the Catechism. Capital punishment may be used but only if absolutely necessary.

In my original article I wrote:

Many of their cases [death row inmates] are not so clear cut. In fact we know that some have been wrongly convicted. Subsequent evidence or a confession by the real killer has set a number of Death Row inmates free. The American Bar Association reported that in a four-year period, seventeen Death Row inmates had been found innocent and freed. I believe it is reasonable to assume that innocent men and women have been executed.

You answered: "You assume but with absolutely no evidence." Actually that in itself is some pretty good evidence. Most of the sentences that have been overturned can be attributed to DNA evidence. How about the cases where there is no DNA evidence? Why would you think that a jury could make a mistake in a case with DNA evidence but not in a case without it? And what about jury nullification? How do you infallibly defend against that? If someone is alive and you have discovered a mistake you can make it right. If they are dead it's too late.

When I mentioned the high cost of executing someone you said:

On the one hand, you don't want the innocent executed. So to remedy that, we develop safeguards to prevent this from occurring. Now those safeguards are too expensive, another reason we need to abolish the death penalty! You want to have it both ways.

I am not trying to have it both ways. I am simply saying that it is a bad idea and it is more expensive. What I had in mind was the individual who is in favor of the death penalty "because the taxpayers shouldn't have the expense of feeding and housing murderers." Perhaps I should have been a bit clearer on that. I appreciate your feedback Kevin. However, based on the facts presented, I just don't find your argument convincing.

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